

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ITHACA VENTURES k.s. and ITHACA)	
DEVELOPMENT, LLC,)	
)	
Plaintiffs,)	C.A. No. 13-824-GMS
)	
v.)	JURY TRIAL DEMANDED
)	
NINTENDO OF AMERICA INC. and NINTENDO)	
CO., LTD.,)	
)	
Defendants.)	

**DECLARATION OF RICHARD L. HORWITZ IN SUPPORT OF NINTENDO'S
MOTION TO TRANSFER VENUE TO THE WESTERN DISTRICT OF WASHINGTON**

I, Richard L. Horwitz, hereby declare as follows:

1. I am a partner at the law firm of Potter Anderson Corroon LLP, Hercules Plaza, 1313 North Market Street, 6th Floor, Wilmington, DE 19801. I am counsel for Nintendo of America Inc. and Nintendo Co. Ltd. (collectively "Nintendo") in this matter.
2. I make this declaration in support of Nintendo's Motion to Transfer Venue to the Western District of Washington.
3. Attached as Exhibit 1 is a true and correct copy of State of Texas formation papers for Ithaca Development, LLC showing Ithaca filed for formation on July 28, 2010. These papers also show that as of August 28, 2013, Ithaca Development, LLC's status is listed as "Active."
4. Attached as Exhibit 2 is a true and correct copy of State of Delaware formation papers for Ithaca Development, LLC showing Ithaca filed for formation on April 22, 2013.
5. Attached as Exhibit 3 is a true and correct copy of pages printed from the Federal Court Management Statistic website showing statistics for the Western District of Washington.

This data is also available at this location:

<http://www.uscourts.gov/Statistics/FederalCourtManagementStatistics.aspx>

6. Attached as Exhibit 4 is a true and correct copy of pages printed from the Federal Court Management Statistic website showing statistics for the District of Delaware. This data is also available at this location:

<http://www.uscourts.gov/Statistics/FederalCourtManagementStatistics.aspx>

7. A search of travel websites, such as Expedia, shows that numerous non-stop flights are available between Dallas, Texas and Seattle, Washington each day.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 29th day of August, 2013.

/s/ Richard L. Horwitz

Richard L. Horwitz

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, Richard L. Horwitz, hereby certify that on August 29, 2013, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I hereby certify that on August 29, 2013, the attached document was electronically mailed to the following person(s)

Kenneth L. Dorsney
Morris James LLP
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801-1494
kdorsney@morrisjames.com

Randall J. Sunshine
Ted S Ward
Kim Zeldin
Edward A. Klein
Liner Grode Stein Yankelevitz Sunshine
Regenstreif & Taylor
1100 Glendon Avenue, 14th Floor
Los Angeles, CA 90024-3503
rsunshine@linerlaw.com
tward@linerlaw.com
eklein@linerlaw.com
kzeldin@linerlaw.com

By: /s/ Richard L. Horwitz
Richard L. Horwitz
David E. Moore
Bindu A. Palapura
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, Delaware 19801
(302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com
bpalapura@potteranderson.com